

TENNESSEE REGULATORY AUTHORITY

Sara Kyle, Chairman
Deborah Taylor Tate, Director
Pat Miller, Director
Ron Jones, Director



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460 James Robertson Parkway
Nashville, Tennessee 37243-0505

TN REGULATORY AUTHORITY
DOCKET ROOM

November 20, 2002

BY FACSIMILE AND U.S. MAIL

The Honorable Dunning Cheatham, Mayor
Town of Dover
P. O. Box 447
Dover, Tennessee 37058

RE: On-Site Systems, Inc. Petition to Amend Its Certificate of Convenience and Necessity for
Expansion of Service Area (Stewart County West)
Docket No. 02-00477

Dear Mayor Cheatham:

The Tennessee Regulatory Authority is in receipt of your letter of November 18, 2002, in which you request that the Authority delay its decision on the above-referenced petition until On-Site Systems, Inc. submits a written plan containing a timetable for service in On-Site's proposed service area in Stewart County. Your letter has been placed in the official docket file for this matter.

At the Authority Conference held on November 18, 2002, based on the Town of Dover's agreement as signified in the letter of April 18, 2002, On-Site was granted a limited Certificate of Public Convenience and Necessity to serve Cindy's Restaurant in Stewart County. The Authority has deferred its consideration of the remaining territory requested in On-Site's petition until the next Authority Conference, which is scheduled for December 2, 2002.

Please be advised that if the Town of Dover intends to oppose On-Site's petition, the Town should file a petition to intervene in this docket within seven (7) days of that Conference in accordance with Tenn. Code Ann. § 4-5-310 and the filing procedures stated in the Authority's Rule (Rule 1220-1-1-.03). Copies of this statute and the TRA Rule are enclosed for your review. The Authority's consideration of On-Site's petition at the December 2, 2002 Conference will proceed as the Hearing on On-Site's petition in accordance with Tenn. Code Ann. § 65-4-201, if no intervention is filed within the requisite time period.

The Honorable Dunning Cheatham, Mayor
November 20, 2002
Page Two

Please note that all filings should be addressed to the Chairman of the Authority rather than to the Executive Secretary as stated in the Rule. Should you have any questions, please do not hesitate to give me a call.

Sincerely,



J. Richard Collier
General Counsel

Enclosures

cc: Chairman Sara Kyle
Director Pat Miller
Director Ron Jones
State Senator Roy Herron
State Representative Elect 75th District Willie Borchert
Charles Pickney, Jr., President of On-Site

Copy filed in Docket No. 02-0477

WEST'S TENNESSEE CODE ANNOTATED
TITLE 4. STATE GOVERNMENT
CHAPTER 5. ADMINISTRATIVE RULES AND PROCEDURE
PART 3--CONTESTED CASES

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Current through End of 2002 Second Reg Sess.

§ 4-5-310. Intervention

- (a) The administrative judge or hearing officer shall grant one (1) or more petitions for intervention if:
- (1) The petition is submitted in writing to the administrative judge or hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) days before the hearing;
 - (2) The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and
 - (3) The administrative judge or hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.
- (b) The agency may grant one (1) or more petitions for intervention at any time, upon determining that the intervention sought is in the interests of justice and shall not impair the orderly and prompt conduct of the proceedings.
- (c) If a petitioner qualifies for intervention, the administrative judge or hearing officer may impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Conditions may include:
- (1) Limiting the intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition;
 - (2) Limiting the intervenor's use of discovery, cross-examination and other procedures so as to promote the orderly and prompt conduct of the proceedings; and
 - (3) Requiring two (2) or more intervenors to combine their presentations of evidence and argument, cross-examination, discovery and other participation in the proceedings.
- (d) The administrative judge, hearing officer or agency, at least twenty-four (24) hours before the hearing, shall render an order granting or denying each pending petition for intervention, specifying any conditions, and briefly stating the reasons for the order. The administrative judge, hearing officer or agency may modify the order at any time, stating the reasons for the modification. The administrative judge, hearing officer or agency shall promptly give notice of an order granting, denying or modifying intervention to the petitioner for intervention and to all parties.

1982 Pub.Acts, c. 874, § 48.

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(Rule 1220-1-1-.01, continued)

- (j) "Electronic Document" means any documents created in digital format on a computer, in a format compatible with software in use by the Authority, and transmitted to the Authority via floppy disks, zip disks, cd-rom, e-mail or other electronic means.

Authority: *Tennessee Code Annotated, § 65-2-102.* **Administrative History:** *Original rule filed June 30, 2000; effective September 13, 2000.*

1220-1-1-.02 APPLICABILITY.

Except as may be otherwise expressly provided either by these rules or by governing statutes, these rules shall apply to contested cases and Authority Conferences. These rules apply to arbitration proceedings held pursuant to 47 U.S.C. § 252 (The Federal Telecommunications Act) unless otherwise specified. These rules do not apply to matters pertaining to the internal organization and functioning of the Authority.

Authority: *Tennessee Code Annotated, §§ 4-5-102, 65-2-102, 65-2-108, 65-4-101 and 65-4-104.* **Administrative History:** *Original rule filed June 30, 2000; effective September 13, 2000.*

1220-1-1-.03 GENERAL FILING PROCEDURES.

- (1) All documents filed with the Authority shall be filed in the office of the Executive Secretary, who is responsible for maintaining the official records of the Authority.
- (2) All documents filed in a formal proceeding shall contain a caption stating the style of the proceeding, the docket number unless no docket number has been assigned at the time of filing, and the date and title of the document being filed. All documents filed shall be signed by the party filing the same, or by that party's counsel. Where service is required, all documents filed shall contain a certificate, signed by the person responsible for service, confirming that service has been made on the persons there shown by the means there shown.
- (3) Upon receipt in the office of the Executive Secretary, all documents shall be stamped on the first page thereof to show the date and time of filing. Persons submitting documents for filing may request, and the Executive Secretary's office shall provide, a copy stamped to show the date and time of filing, to be returned to that person, either in person or by mail in a postage prepaid, self-addressed envelope furnished for that purpose.
- (4) Unless otherwise provided in these rules with respect to a particular category of proceeding, a written original and four (4) written copies of all electronic documents or an unbound, one sided original and thirteen (13) copies of all written documents shall be filed with the Executive Secretary. The original shall be retained in the official files.
- (5)
 - (a) All documents filed with the Executive Secretary must be on 8 1/2" x 11" paper where possible. Any physical exhibits, other than those submitted on 8 1/2" x 11" paper, must be accompanied by a copy of the exhibit or a description and explanation of the exhibit on 8 1/2" x 11" paper.
 - (b) All electronic documents shall be in a format compatible with software in use by the Authority, and shall be transmitted to the Authority via floppy disks, zip disks, cd-rom, e-mail or other electronic means.
- (6) The Executive Secretary may refuse to accept any document which does not comply with these rules or with respect to which the required fees or charges have not been tendered.
- (7) Documents may be submitted by first class mail, certified or registered return receipt mail, hand delivery or overnight receipt courier and must be filed in the Executive Secretary's office within the time fixed for filing. Documents may also be submitted by authorized electronic means or facsimile

(Rule 1220-1-1-.03, continued)

and when so submitted an original and the requisite number of written copies shall follow and be postmarked within the time fixed for filing.

- (8) Parties in a contested case in which a protective order has been entered who seek to file information which they deem proprietary shall file with the Authority requisite copies of said information in a sealed envelope clearly marked "proprietary information," and otherwise in accordance with the terms of the protective order. The provisions of this rule shall not abridge the right of any other party to contest the proprietary status of such information. Further, the Authority and its staff shall have the right to review said proprietary information for the purpose for which it was submitted.

Authority: *Tennessee Code Annotated, §§ 65-1-204, 65-1-209, 65-2-102 and 65-2-103. Administrative History:* Original rule filed June 30, 2000; effective September 13, 2000.

1220-1-1-.04 DOCKETING AND FILING FEES.

- (1) Upon the filing of the document initiating any category of formal proceeding under these rules and the tendering of the requisite fees, the proceeding will be assigned a docket number, which shall be used to identify all documents and exhibits filed in that proceeding.
- (2) The Executive Secretary shall charge and collect all filing fees required by law.
- (3) For the purposes of the filing fee for "petitions" authorized by T.C.A. § 65-2-103, "petitions" shall include any initial filing, however denominated, which seeks action by the Authority and which is not otherwise covered by an express statutory provision or a provision of these rules or other rules of the Authority.

Authority: *Tennessee Code Annotated, §§ 65-1-204, 65-1-209 and 65-2-102. Administrative History:* Original rule filed June 30, 2000; effective September 13, 2000.

1220-1-1-.05 WAIVER OF RULES.

- (1) For good cause, including expediting the disposition of any matter, the Authority may waive the requirements or provisions of any of these rules in a particular proceeding, on motion of a party or on its own motion, except when a rule embodies a statutory requirement. The Authority shall state the basis of any such waiver and may impose conditions or limitations consistent with the basis for the construction of these rules.
- (2) A party may waive the benefits or rights of that party expressed in any rule, but may not waive the fulfillment of any duty.

Authority: *Tennessee Code Annotated, § 65-2-102. Administrative History:* Original rule filed June 30, 2000; effective September 13, 2000.

1220-1-1-.06 HEARINGS AND AUTHORITY CONFERENCES.

- (1) All contested case hearings, public hearings under rulemaking and any other hearings pursuant to these rules shall be held at the offices of the Authority in Nashville, Tennessee at such dates and times as may be set in the official notice of hearing or as may be set by order of the Authority.
- (2) Scheduled and special Authority Conferences shall be held at the offices of the Authority in Nashville, Tennessee at such dates and times as the Authority may direct. The Authority may schedule regular, periodic dates for Authority Conferences, which may be rescheduled by the Authority, and any special meetings at such places, dates and times as the Authority may direct.